



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

September 11, 1961

Honorable Robert S. Calvert  
Comptroller of Public Accounts  
Capitol Station  
Austin 11, Texas

Opinion No. WW-1139

Re: Whether the emolument value of \$600.00 should be added to the annual rate of pay (\$6,457.00) determined by applying the Job Classification provisions found in S.B. No. 1, Acts 57th Leg., 1st C.S. and related question.

Dear Mr. Calvert:

Your request for an opinion reads as follows:

"The Adjutant General's department has filed, with me, a schedule of the pay of their employees who will come under the provisions of the Job Classification Act on the first of September, 1961. Included in the list are ten persons who receive free rent and utilities in State owned apartments.

"The Appropriation Bill, S.B. I, Acts of the 57th Legislature, First Called Session, which will go into effect on the first of September provides as follows:

"For the purposes of this Classification Plan, the Adjutant General shall set a fair value on emoluments granted, and this value shall be considered along with the monetary remuneration for each position, in conforming with the Position Classification Plan and the rates of pay governed by the Special Provisions in Article III, Section 13 of the Act. The Adjutant General shall maintain with the State Comptroller a current record showing name, job title and amount of each employee's emoluments.'

"This department recognizes that the Adjutant General has correctly followed the Legislative provisions in determining the

rate of pay to be paid its employees as of the first day of September.

"In compliance with the provisions of the above quotation the department has placed a value on the emoluments received by each employee who receives free rent and utilities.

"An employee during the month of August, 1961, was paid at an annual rate of \$6,180.00. Under the Job Classification provisions an increment increase of \$277.00 a year is added making a total salary of \$6,457.00. The Adjutant General has found that the monetary value of housing and utilities to be \$600.00. He asks that this amount be added to the yearly rate of \$6,457.00 making the annual rate of pay for the fiscal year beginning September 1, 1961, \$7,057.00.

"Your advice is needed on the following questions.

"1. Should the emolument value of \$600.00 be added to the annual rate of pay (\$6,457.00) determined by applying the Job Classification provisions found in S.B. 1, Acts of the 57th Legislature, First Called Session?

"2. If you find the \$600.00 in question one cannot be added to the rate of pay (\$6,457.00); should the \$600.00 be deducted from the employees yearly rate of pay of \$6,457.00?"

The example referred to in your request reveals that during the month of August, 1961, an employee of the Adjutant General's Department is receiving an annual salary at the rate of \$6180 plus emoluments with the value of \$600 making his total compensation as of August 31, 1961, the sum of \$6780 per annum.

Section 2 of House Bill 189, Acts 57th Legislature, Regular Session, Chapter 123, page 238 (codified in Vernon's as Article 6252-11, V.C.S.), setting up the Position Classification Plan for all regular full-time salaried employees within departments and agencies of the State (with certain exceptions not applicable here) provides, in part, as follows:

"It is further provided, however, that no employee who is presently employed by the State shall be paid less through the application of

this Act than the salary he received in accordance with the provisions of House Bill No. 4, Acts of the Fifty-sixth Legislature, Third Called Session, 1959, or the minimum of the appropriate salary range specified in the General Appropriations Act effective September 1, 1961, whichever is the higher, so long as said employee remains in such classified position under the Position Classification Plan."

On Page III-3 of Senate Bill 1, Acts of the 57th Legislature, 1st Called Session, the following provision, applicable to the Adjutant General's Department, reads:

"For the purposes of the Classification Plan, the Adjutant General shall set a fair value on emoluments granted, and this value shall be considered along with the monetary remuneration for each position, in conforming with the Position Classification Plan and the rates of pay governed by the Special Provisions in Article III, Section 13 of this Act. The Adjutant General shall maintain with the State Comptroller a current record showing name, job title and amount of each employee's emoluments."

On Page III-187 the applicable classification salary of the example contained in your request reads as follows:

"CLASSIFICATION SALARY SCHEDULE

<u>"Group</u>	<u>1</u> <u>Min.</u>	<u>2</u> <u>-</u>	<u>3</u> <u>Midpoint</u>	<u>4</u> <u>-</u>	<u>5</u> <u>Max.</u>	<u>Step</u> <u>Increment</u>
" . . .						
" 16	\$6162	\$6439	\$6716	\$6993	\$7270	\$277
" . . . "						

Under the example stated in your request, the employee as of August 31, 1961, will be paid a compensation of \$6180 in monetary remuneration plus \$600 emoluments, making a total compensation for classification salary schedule purposes of \$6780 per annum, falling within the group range 16 above quoted between the midpoint salary range and the 4th step. In view of the provisions applicable to the Adjutant General's Department that the fair value on emoluments granted shall be considered along with the monetary remuneration in conforming with the classification plan, you are advised that on September 1, 1961,

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the employees referred to in your request will receive a monetary remuneration of \$6457 per annum, in addition to being furnished housing and utilities computed as follows:

Base salary including emoluments - \$6780, plus step increments of \$277 minus emoluments valued at \$600.

This opinion is limited to those employees whose compensation, consisting of monetary remuneration and emoluments, does not exceed the group range to which the employee is assigned. Where the combined total of monetary remuneration and emoluments exceeds the maximum of the group range to which the employee is assigned, see Attorney General's Opinion WW-1135.

#### S U M M A R Y

Where an employee received monetary remuneration in addition to housing and utilities, the value of the emoluments is to be added to his cash remuneration for the purpose of determining such employee's classification only. In determining the warrant to be paid such employee, the value of the emoluments is to be deducted from the sum total of the employee's base remuneration as of August 31 plus the value of emoluments plus step increments.

Yours very truly,

WILL WILSON  
Attorney General of Texas

  
By John Reeves  
Assistant

JR:dhs

APPROVED:  
OPINION COMMITTEE  
W. V. Geppert, Chairman  
J. C. Davis  
W. Ray Scruggs  
Marietta Payne

REVIEWED FOR THE ATTORNEY GENERAL  
BY: Howard W. Mays